

Brief reflections on professional ethics as a need to be incorporated into the academic thought of the faculties of jurisprudence in national universities



Breves reflexiones a cerca de la etica profesional como necesidad a ser incorporada al pensun academico de las facultades de jurisprudencia en universidades nacionales

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Abstract

Professional ethics, as a regulator of individual conduct in the work of a given profession, fulfills a necessary function and objective. That conduct should be attached to values, which makes it a guide and whose results are (in the case of law), responsibility, diligence, honesty, among others. In the present times, whoever studies in a university center requires an integral formation; that is to say that in addition to the knowledge with which the individual will graduate, he/she must possess in a complementary manner, a clear professional conduct with which he/she must act. Finally, public universities in Ecuador, due to eminently social principles, are in the duty to comply with these guidelines especially behavioral of their graduates.

Keywords: professional ethics, academic thought, university.

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Resumen

La ética profesional como reguladora de la conducta individual en el quehacer de una profesión determinada, cumple una función y objetivo necesarios. Aquella conducta debiera estar apegada a valores, lo que la convierte en una guía y cuyos resultados son (en el caso de la abogacía), la responsabilidad, diligencia, honestidad, entre otros. En los actuales tiempos, quien estudia en un centro universitario requiere de una formación integral; esto es que a más de los conocimientos con los que ha de egresar el individuo, posee de manera complementaria, una clara conducta profesional con que ha de actuar. Por último, las universidades públicas en el Ecuador, debido a principios eminentemente sociales, están en el deber de cumplir con esos lineamientos sobre todo conductuales de sus egresados.

Palabras clave: ética profesional, pensum académico, universidad.

Introduction

It is a reality that the intellectual preparation of the individual, which is achieved by obtaining a professional degree, must necessarily go hand in hand with the knowledge of the corresponding ethical standards of professional behavior; and in the case of graduates of public universities, in addition, with the conviction of a social sense. In such context, it is well worth an analysis that auscultation certain background about how such a task should be embodied, so that in this way, both whoever graduates from a public university, as well as these higher education centers fulfill the task for whose purposes they have been created.

Being in charge of the study of the rules that govern the conduct of human beings in society, ethics undoubtedly becomes a science with its own aims and objectives

Like any science, it has a systematization in its object of study; hence, its results will also be truthful.

As Enrique Bonete points out, “ethics cannot be considered a mere speculation that contributes nothing to the world of professional life; on the contrary, it is as necessary as it is insufficient. Necessary, because without a minimum ethical-philosophical and anthropological reflection, the most important “principles” that inspire the best codes of the most prestigious professions would lack support and rational justification; and insufficient, because by itself,

the ethics present in the deontological codes do not form any force of conviction if there is not previously a moral will on the part of the professionals themselves to assume with all the consequences the “spirit” that the best codes advocate.” All this, on the assumption that philosophical ethics is capable of truly illuminating and guiding the world of practice and, in particular, the complex world of information and communication. It is not superfluous to emphasize the fact that the philosophical ethic is capable of illuminating and guiding the world of practice and, in particular, the complex world of information and communication.

It is not superfluous to emphasize the value aspect that ethics possesses; hence, that it is a regulator of conduct. In this sense, it coincides with any other norm such as law.

Being applicable to a sector of human conduct, it regulates it according to its canons; this maxim has been reiterated and variable, depending on the various instances of conduct to be observed. Thus, we can highlight the so-called professional ethics, whose content only regulates specific behavioral sectors.

So important is the so-called professional ethics, since its absence or non-observance will represent punishable actions in this respect.

Materials and methods

According to the different historical documents that come from antiquity, “ethics” comes from the Greek Ethos, and its content is: character, behavior. It dates these concepts from the first works of philosophers in antiquity, among them Plato, Aristotle, Democritus. In the case of Aristotle, all the deepening about the study of ethics, is reflected through his essay called: “Nicomachean Ethics”. In agreement with the philosopher Adolfo Sánchez Vásquez, ethics deals with the personal relationships of each individual (such as the decisions made on a daily basis), and in a broader sense, with collective bonds.

In this context, ethics as a norm of human behavior, in the aforementioned scenarios, is of great importance for individuals in particular and society in general. For the same reason, the individual in that acting, needs to have certain bases for an adequate conduct or behavior and that in this case only ethics can solve it. Hence, an act contrary to these rules, especially in the case of a professional activity, not only creates a negative image of the

practitioner, but also establishes a general distrust on the part of society as a whole. For the same reason, we are of the orientation that ethics should be taught at least in its general principles at the moment of imparting knowledge about a certain professional activity.

In general terms, the exercise of any profession implies, from the putting into practice of the knowledge acquired in the university classrooms, to observe a conduct that at all times complements the knowledge.

In this way, we could well say that, in order to observe integrity in the professional practice, the acquired knowledge is not enough, no matter how broad it may be and that from a personal point of view it can be pointed out as someone who has a broad mastery of a science. That is to say, it is very necessary to be complemented by a standard of conduct that regulates such actions.

Precisely, the standard of conduct will take care of establishing (in the professional training of the individual), basic principles, behavioral attitudes and other characteristics, depending on the type of professional activity.

In the implementation of professional activities such as law, this so-called complementation with an adequate behavior is to be noted as a relevant feature, since such activity based on attitudes, have to do with manifestations of credibility that the professional externalizes. On the other hand, the absence of these values will evidence in the professional a not so correct behavior in any of his activities. In the case of the legal professional, it would seem that this is not a simple complement (with his academic preparation), since it is possible, in certain circumstances, that his ethical behavior prevails over any other situation.

Many of these values (diligence, loyalty, professional secrecy, justice, honesty, etc.), in the case of the lawyer, are combined at the same time, since his practice is related to his clients, colleagues, judges, among others. Therefore, even for reasons of credibility, such figures cannot be disregarded.

Therefore, it is important to take into account that each of his ways of acting or professional conduct must be supported, depending on who he has to act before. Thus, your professional conduct before a judge must reflect, in addition to your professional knowledge, the credibility of your support. The absence of such value will show that you are not acting according to adequate standards of conduct.

In the same way, before the person to be represented, it must be taken into consideration that the latter has placed his trust in the professional, so that he expects an appropriate response: that is, diligence, honesty, loyalty. Such conduct will also imply that, in the absence of knowledge of certain branches of the Law, he/she must act correctly and inform the person who has sought his/her services of such situation. While, in front of his peers, acting in a transparent, honorable manner and in good faith, must be given at all times. Lastly, we must not forget that a lawyer is fundamentally owed to society, therefore, how he acts is of relevance, mainly for his credibility.

Results

It can be pointed out that professional ethics is the set of principles, values oriented to regulate individual conduct in an area of knowledge.

From this point of view, it is possible to observe some coincidences, as well as specific differences between the different professional ethics. Thus, there will always be a very common way of regulating professional behavior by means of pre-established principles and values called professional codes. However, one difference will be that, as far as the normative content is concerned, it must be adjusted to the different activities performed by each professional in his field.

There is no doubt about the differences between ethics and professional deontology. In this regard it has been said that: One of the differences when we speak of ethics and deontology is that the former refers directly to the personal conscience, while the latter adopts the function of a model of action in the area of a collectivity. While one is oriented towards good, the other towards duty; while one proposes, the other demands. In short, when we refer to a profession, we can speak of the existence of a certain ethics and deontology. Each of the aforementioned regulations plays a different role; therefore, being different, they should not be confused in their orientations, since their distinctions are equivalent to their own purposes.

For their part, lawyers have followed a historical itinerary in the development of the profession, with particular nuances that depend on the tradition and the legal system. However, there are common traits that legal professionals possess regardless of the place where they practice; these common traits constitute the professional

identity. Delving into identity requires a deeper identification of these elements, which can be identified in several ways. On the one hand, as with physicians, codes of ethics allow us to learn how legal professionals shape their identity. Thus, to identify what is expected of a lawyer in Mexico, the Code of Ethics of the Mexican Bar Association, Bar Association or some other professional organization, including the Illustrious and National Bar Association of Mexico or the National Association of Corporate Lawyers, allows us to identify what is expected of the actions of legal professionals. For example, the first article of the recently reformed Code of Ethics of the Mexican Bar Association states: “the lawyer must keep in mind that he/she fulfills a social function, and therefore must act in accordance with the principles and values that inspire this Code”. A careful analysis of the values and principles of the code takes us back to the tradition that the profession has had.

Complementing the above, ethics helps the professional to establish a very necessary guiding conduct in his performance, as already mentioned, based on values. In turn, by applying these principles in the manner described above, a social response must be given.

The legal profession is not the only professional activity that has a specific behavioral orientation, be it of a social, moral, religious or other nature.

On the other hand, this purpose will not be the same in different societies; however, in the way it manifests itself (in the case of the legal profession) this social function will be present, although in different dimensions.

For the legal professional in the exercise of his activity, this means that his behavioral guidelines are determined first to put before all those considerations, where the intention of social service must prevail over -even- his personal requirements. Therefore, it is not a simple vocation that must take precedence, but a predetermined type of behavior that is related to the legal needs that people have.

But, in order to determine this social thinking, there must first be a value scale that is oriented to that purpose. From there, the thought of a kind of complementation of teachings to be imparted starts; because the formation that is only based on the teaching of the sciences of Law, orphaned of how the future lawyer must behave in the practical exercise, generates by itself a great individual emptiness.

In this case, the complementary studies related to the understanding that even the scientific knowledge acquired in university classrooms needs to have a behavioral orientation, makes it necessary to prepare the future professional in this sense. For all the exposed antecedents, it is more than justified that in the case of ethics as a science, and of professional ethics in particular, it should be incorporated as a subject of study in our professional training curricula. For the same reason it is necessary to establish some reflections in the respective context.

In order to do so, we have to graph some parameters that stand as reference pillars to be considered and that basically have to do with the fact that the law student must have as an orientation of his future professional conduct and also understand that the career that is the subject of his study has an eminently social prism. This, inasmuch as our houses of study are also based on democratic principles, and therefore, fervently believe in the values of justice and equity.

Discussion

In this sense, it has been pointed out that professional ethics in university education is a fundamental reference; it implies considering professional values, their application in a reflective and critical manner; in short, promoting in the student the values of the profession he/she is going to perform, and his/her commitment to society.

Thus, the first task of teaching will be that the university student has this basic and fundamental knowledge of what ethics is for -first- as a science, to immediately understand that professional ethics serves to cement those values that will serve him in the future, in his actions as a professional. Complementarily, thanks to the social principles of our University, the law student must also understand that the profession he has chosen to study has this priority.

In this line, we would agree with Hortal when he proposes the teaching of professional ethics as “an aid to systematic reflection on the specific service, the main obligations and the possible ethical conflicts with which those who aspire to responsibly and lucidly assume the exercise of their profession for the benefit of society will have to face”. Thus, we must consider the two dimensions inherent to it. On the one hand, the teleological dimension, i.e., the purpose or objective of professional practice, and, on the other, the pragmatic dimension, which, subordinated to the former, relates to the code of

ethics. The latter is proposed as a structured guide to those aspects relating to the professional's relations with himself/herself, with the institution carrying out the activity and with society as a whole.

There is no doubt that nowadays, in emerging societies such as ours, whoever prepares for a future profession, in public universities, the absorption of this behavioral knowledge is very necessary, since in the face of an ethical behavior, absent of any principle, such as justice, equity, will have no excuse for society to point out such acts. As it can be observed, it is not a simple pedagogical incorporation, as if it were one more subject, but it must be implemented properly systematized, so that the student absorbs it in a meridian way.

In this sense, it should also be kept in mind that for a complete academic formation of a student, it is not only necessary to have a vast knowledge of the different branches of Law, which includes the great effort that is materialized by constantly innovating the subjects and syllabuses according to the world development of this science; such learning should be guided by the guidelines of conduct of the future professional, and this is precisely what the implementation of professional ethics as a branch to be taught is going to deal with. Also, these proposals for the incorporation of ethics as a subject of study cannot be ignored from the point of view of our universities, since they have the moral duty (because they owe it to our society) to form, from the academic point of view, a professional who not only has a solid knowledge of Law, but also clear values and an unwavering social conscience.

Finally, bearing in mind what it means (the field of ethics) the concept that is held in our environment, of the law professional who graduates, with a kind of prejudice for university study centers such as ours, also makes it a pragmatic necessity that the preparation of their students is integrated.

In this context, our proposal, which has been detailed from the point of view of the generalities in the field of the limits of professional ethics, also involves the participation of several actors, including the will of the respective authorities, focusing on the awareness (of this need) that the teacher must have, to finally reach the student. It is not a minor undertaking, therefore, it should be carried out without ignoring the other aspects to be kept in mind.

Through the present analysis carried out in previous lines, about our sustains on the need in public universities, to impart as a subject of study, professional ethics, it can be concluded that it is of convenience and necessity such implementations, since it constitutes

for whoever obtains a university degree from these houses of study, to have a behavioral tool that only professional ethics is in capacity to give it. Likewise, the way in which its study has been incorporated comprises -mainly- of the conviction of its necessity on the part of the respective authorities.

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